

House Bill 387

By: Representatives Teilhet of the 40th, Abrams of the 84th, Kaiser of the 59th, Frazier of the 123rd, Thomas of the 100th, and others

A BILL TO BE ENTITLED
AN ACT

To amend Title 7 of the Official Code of Georgia Annotated, relating to banking and finance, so as to provide for definitions; to provide certain disclosures of fees regarding refund anticipation loans and checks; to provide certain disclosures during the application process for refund anticipation loans or checks; to provide for certain disclosures when advertising refund anticipation loans or checks; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 7 of the Official Code of Georgia Annotated, relating to banking and finance, is amended by inserting a new chapter to read as follows:

"CHAPTER 9

7-9-1.

As used in this chapter, the term:

(1) 'Facilitator' means a person who individually or in conjunction or cooperation with another person:

(A) Solicits the execution of, processes, receives, or accepts an application or agreement for a refund anticipation loan or refund anticipation check; or

(B) In any other manner facilitates the making of a refund anticipation loan or refund anticipation check.

(2) 'Market' or 'advertise' means to produce, distribute, broadcast, or otherwise display or have displayed written materials, oral statements, or visual materials describing the facilitator's products and services.

(3) 'Refund anticipation check' means a check or other payment mechanism:

(A) Representing proceeds of the consumer's tax refund;

(B) Issued by a financial institution or other person that received a direct deposit of the consumer's tax refund or tax credits; and

(C) For which the consumer has paid a fee or other consideration for such payment mechanism.

(4) 'Refund anticipation loan' means a loan that is secured by or that the facilitator arranges to be repaid directly or indirectly from the proceeds of the consumer's income tax refund or tax credits. A refund anticipation loan also includes any sale, assignment, or purchase of a consumer's tax refund at a discount or for a fee, whether the consumer is required to repay the buyer or assignee if the Internal Revenue Service denies or reduces the consumer's tax refund.

(5) 'Refund anticipation loan fee' means the charges, fees, or other consideration charged or imposed directly or indirectly by the facilitator for the making of or in connection with a refund anticipation loan. This term does not include any charge, fee, or other consideration usually charged or imposed by the facilitator in the ordinary course of business, such as fees for tax return preparation and fees for electronic filing of tax returns, if the same fees in the same amount are charged to the facilitator's customers who do not receive refund anticipation loans or refund anticipation checks.

7-9-2.

(a) Every facilitator shall display a schedule showing the current fees for refund anticipation loans facilitated at the office, for refund anticipation checks facilitated at the office, and for the electronic filing of the consumer's tax return.

(b) Every facilitator shall display prominently on each fee schedule:

(1) A legend, centered, in boldface capital letters and 28 point type stating: 'NOTICE CONCERNING REFUND ANTICIPATION LOANS'; and

(2) The following verbatim statement:

'When you take out a refund anticipation loan, you are borrowing money against your tax refund. If your tax refund is less than expected, you must still repay the entire amount of the loan. If your refund is delayed, you may have to pay additional costs. YOU MAY GET YOUR REFUND IN ABOUT 10 DAYS WITHOUT GETTING A LOAN. You can have your tax return filed electronically and your refund direct deposited into your own bank account without obtaining a loan or paying fees for an extra product.'

(c) The postings required by this Code section shall be made in no less than 28 point type on a document measuring no less than 16 inches by 20 inches. The posting required in this Code section shall be displayed in a prominent location at each office where the facilitator is facilitating refund anticipation loans.

(d) No facilitator may facilitate a refund anticipation loan or refund anticipation check unless:

(1) The disclosures required by this Code section are displayed; and

(2) The fee actually charged for the refund anticipation loan or refund anticipation check is the same as the fee displayed on the schedule.

7-9-3.

(a) When a consumer applies for a refund anticipation loan or refund anticipation check, the facilitator shall disclose to the consumer on a form separate from the application in 14 point type, the following:

(1) The fee for the refund anticipation loan or refund anticipation check;

(2) The fee for electronic filing of a tax return;

(3) The annualized rate of interest of the refund anticipation loan or refund anticipation check; and

(4) The time within which the proceeds of the refund anticipation loan or refund anticipation check will be paid to the consumer if the loan or check is approved.

(b) For refund anticipation loans, notice shall be given to the consumer as follows:

(1) A legend, centered, in boldface, capital letters and 18 point type stating: 'NOTICE'; and

(2) The following notice:

'This is a loan. This loan is borrowing money against your tax refund. If your tax refund is less than expected, you must still repay the entire amount of the loan. If your refund is delayed, you may have to pay additional costs. YOU MAY GET YOUR REFUND IN ABOUT 10 DAYS WITHOUT GETTING A LOAN. You can have your tax return filed electronically and your refund direct deposited into your own bank account without obtaining a loan or other paid product.'

(c) For refund anticipation checks, notice shall be given to the consumer as follows:

(1) A legend, centered, in boldface, capital letters and 18 point type stating: 'NOTICE'; and

(2) The following notice:

'You are paying [amount of refund anticipation check] to get your refund check through [name of issuer of refund anticipation check]. YOU CAN AVOID THIS FEE AND STILL RECEIVE YOUR REFUND IN ABOUT 10 DAYS BY HAVING THE INTERNAL REVENUE SERVICE DIRECT DEPOSIT YOUR REFUND INTO YOUR OWN BANK ACCOUNT. You can also wait for the Internal Revenue Service to mail you a check.'

96 7-9-4.

97 (a) No facilitator shall market or advertise a refund anticipation loan without including this
98 notice: '[Name of product] is a loan. You can get your refund in about 10 days without a
99 loan or extra fees if you use e-file and direct deposit.'

100 (b) For print advertisements, this information shall be in type size no less than one-half as
101 large as the largest type size in the advertisement. For radio and television advertisements,
102 this information shall receive at least seven seconds of air time.

103 (c) No facilitator shall market or advertise a refund anticipation check without including
104 this notice: 'The [name of product] costs [fee for refund anticipation check]. You can get
105 your refund in about 10 days without this fee if you use e-file and direct deposit.' For print
106 advertisements, this information may be in type size one-half as large as the largest type
107 size in the advertisement. For radio and television advertisements, this information shall
108 receive at least seven seconds of air time."

109 **SECTION 2.**

110 All laws and parts of laws in conflict with this Act are repealed.